IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Revision Application No. 150 of 1997

Sudhir Appasaheb Patil & ors. Applicants
Vs.
State of Maharashtra Respondent

Mr.Shekhar Ingawale for applicants.
Mr.U.V. Nikam, APP for State.

CORAM: B.H.MARLAPALLE,J.

January 22, 2007.

P.C.

. In Regular Criminal Case No.85 of 1986 in all 16 accused were tried for the offences punishable under Sections 147, 148, 338, 324, 427 and 506 read with Section 149 of IPC and accused no.1 died during the trial, whereas accused nos.8 and 15 were acquitted from all the charges by the learned Judicial Magistrate, Fist Class at Kagal by his judgment and order dated 31/10/1991. The other 13 accused i.e. accused nos.2 to 7, 9 to 14 and 16 were convicted for the offences punishable under Sections 147, 323, 148, 448 and 427 read with Section 149 of IPC. They were sentenced to suffer RI varying from one month to three months. This order of conviction and sentence was challenged in Criminal Appeal No.131 of 1991 and the learned Addl. Sessions Judge at

Kolhapur by his judgment and order dated 14/7/1997 was pleased to set aside the conviction under Section 147 of IPC whereas the conviction for other offences held by the trial Court was upheld with the sentence as well. This revision application impugns the order of conviction and sentence for the offences punishable under Sections 148, 323, 427 and 448 read with Section 149 of IPC.

. The learned counsel for the applicants stated that the applicant no.5 is no more and the remaining 12 accused have compromised with the complainant as well as the injured witnesses. One of the injured witnesses viz. Dhanaji Pandurang Mandavkar (PW 6) is present in the Court and confirms that the applicants as well as accused have entered into a written compromise. It is stated that the incident had occurred on account of some political rivalry and during the last more than 15 years or so, there has been no incidence of any complaints by either of them. They have been living happily in the same village. The complainant as well as the injured witnesses have, therefore, agreed that the offences proved against the applicants be compounded and the applicants be set free. There is no doubt that the

offences punishable under Sections 324, 427 and 448 are compoundable. Section 148 of IPC is regarding rioting armed with deadly weapon. Both the Courts below did not find any case for convicting the accused for offence punishable under Section 324 of IPC and finding recorded by the lower appellate Court acquitted the accused for offence punishable under Section 147 of IPC. Having regards to the evidence as adduced and sifted by both the Courts below, there does not appear to be a case for convicting the appellants for offence punishable under Section 148 read with Section 149 of IPC.

. Hence the order of conviction and sentence under Section 148 of IPC is unsustainable and the same is hereby set aside whereas for the other four offences the application made by both the parties for compounding is hereby allowed and the applicants are accordingly set free. The orders of conviction and sentence stand annulled. Their bail bonds shall stand cancelled.

(B.H